

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

ROBERT A. ROSENER, et al.,	)	
	)	
Plaintiffs,	)	
	)	No. 4:05-CV-1419 CAS
v.	)	
	)	
DAN BULLOCK, et al.,	)	
	)	
Defendants.	)	

**ORDER**

This matter is before the Court on plaintiffs' second motion for additional time to complete service of process on various defendants.

The Complaint herein was filed on September 6, 2005. By Order dated January 5, 2006, the Court ordered plaintiff "promptly to serve defendants Dan Bullock, A. Crawford, R. Trautwein, R. Moak, Wendy Wexler Horn, Betty Nausley, Joseph Nausley, Tom Probst, Ron Thurman, Zeno Douglas and Missouri Department of Revenue and file proof of such service within thirty (30) days of the date of this Order. Failure to comply with Rule 4(m) of the Federal Rules of Civil Procedure and this order will result in dismissal without prejudice of the claims against any unserved defendant."

See Order of Jan. 5, 2006 [Doc. 5]

On January 11, 2006, plaintiffs moved to dismiss their claims against defendants Probst, Thurman and Douglas on the basis that these defendants were deceased, and these defendants were dismissed by docket text order of January 19, 2006.

On February 5, 2006, plaintiffs moved for an additional thirty days to serve and file proof of service as to defendants Bullock, Crawford, Trautwein, Horn, Nausley and Missouri Department of

Revenue, and an additional sixty days as to defendant John Doe. The motion was premised on health issues of plaintiffs' counsel. The Court granted the motion in full, directing plaintiffs to file proof of service on the defendants by March 8, 2006. See docket text order of February 8, 2006.

Plaintiffs now seek an additional fifteen days for service on defendants Bullock, Crawford, Trautwein, Moak and Horn, without providing any explanation as to why service has not yet occurred. Plaintiffs also assert that they have "addressed all service issues" regarding defendants Betty and Joseph Nausley, Tom Probst, Ron Thurman, Zeno Douglas and Missouri Department of Revenue, but plaintiffs have failed to file proof of service as previously ordered, and fail to recognize that their claims against deceased defendants Probst, Thurman and Douglas were previously dismissed.

This case had been on file for six months and the Court has been unable to schedule a Rule 16 conference as the majority of the defendants have not been served and only one responsive pleading has been filed.<sup>1</sup> Plaintiffs appear to be dilatory in the prosecution of this case, which is interfering with the Court's ability to manage its docket. The Court will grant the instant motion, but will not grant any further motions for additional time to obtain and file proof of service.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiffs' motion for additional time to complete service is **GRANTED**. [Doc. 11]

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<sup>1</sup>The Court notes that plaintiffs have not filed a response to the Motion to Dismiss for Lack of Jurisdiction filed by defendant Missouri State Highway Patrol on January 5, 2006. If plaintiffs concede the motion's validity, they should file a statement so indicating by March 16, 2006. If they intend to oppose the motion, they must submit a motion for leave to respond out of time and attach to it a proposed opposition memorandum by March 16, 2006.

**IT IS FURTHER ORDERED** that plaintiffs shall file proof of service on defendants Betty Nausley, Joseph Nausley, Bullock, Crawford, Trautwein, Moak, Horn and Missouri Department of Revenue no later than **March 24, 2006**. In the event proof of service is not filed by **March 24, 2006**, the Court will dismiss plaintiffs' claims against the unserved defendants without prejudice pursuant to Rule 4(m), Fed. R. Civ. P.

**IT IS FURTHER ORDERED** that the Court's prior order granting plaintiffs until **April 10, 2006** to file proof of service on defendant John Doe remains in effect.

**No further extensions of time will be granted with respect to service of process, in the absence of the most extraordinary circumstances.**

A handwritten signature in dark ink, appearing to read "Charles A. Shaw", with a long horizontal flourish extending to the right.

**CHARLES A. SHAW**  
**UNITED STATES DISTRICT JUDGE**

Dated this 9th day of March, 2006.